IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

OP.No. 2975 of 2003(D)

PETITIONER:

LILLYKUTTY MATHEW, W/O. M.M.MANI,
AGED 57 YEARS, RETIRED HEADMISTRESS,
THALLOD L.P. SCHOOL, KOOTHUPARAMBA P.O.,
PIN-670 643, RESIDING AT MADAPPAT HOUSE,
ELIPATTICHIRA, KUTHUPARAMBA P.O., KANNUR DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE.

RESPONDENTS:
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1. **GOVERNMENT OF KERALA,**
   REPRESENTED BY ITS SECRETARY, DEPT. OF EDUCATION,
   GOVERNMENT SECRETARIATE, TRIVANDRUM.

2. **THE DIRECTOR OF PUBLIC INSTRUCTION,**
   TRIVANDRUM.

3. **THE DEPUTY DIRECTOR OF EDUCATION,**
   KANNUR.

4. **THE ASSISTANT EDUCATIONAL OFFICER,**
   KOOTHUPARAMBA.

BY GOVERNMENT PLEADER SMT. T.B. RAMANI.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 5375/2003 IN O.P. NO. 2975/2003

DISMISSED

16/07/2007. **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE APPOINTMENT ORDER DTD. 05/10/1978.

EXT.P.2: COPY OF THE NOTIFICATION DTD. 08/09/1988 ISSUED BY THE R.1.

EXT.P.3: COPY OF THE JUDGMENT DTD. 15/01/1999 BEFORE THE HIGH COURT OF KERALA, ERNAKULAM.

EXT.P.4: COPY OF THE ORDER NO. G.O. (P) 127/99/G. EDN. DT. 04/06/99 ISSUED BY THE R.1.

EXT.P.5: COPY OF THE REPRESENTATION DTD. 20/06/2002 SENT BY THE PETITIONER TO THE R.1.

EXT.P.6: COPY OF THE LETTER DTD. 26/09/2001 SENT BY THE R.4. TO THE R.3.

EXT.P.7: COPY OF THE ORDER DTD. 03/11/2002 ISSUED BY THE R.1. TO THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

P.A. TO JUDGE

prv.

Thottathil B. Radhakrishnan, J.

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O.P.No.2975 of 2003

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Dated this the 16th day of July, 2007.

JUDGMENT

Petitioner, who was a UPSA, instead of being appointed as Headmaster, was appointed as Assistant in charge of Headmaster's post on 5-10-1978. The documents, including Ext.P7, do not show the reason for so appointing her. It is stated in Ext.P7 that the reason is "unknown". She was competent to be an Headmistress.

2. By the decision of the Full Bench of this Court in O.P.No.301 of 1988 dated 19-12-1997 **(Indira M. v. State of Kerala, ILR 1998(2) Kerala 771)** it was noticed that condition that fifteen years' continuous service as teacher for securing the scale of Headmaster was not in force any more. Accordingly, the petitioner is entitled to the benefit sought for by her.

In the result, this writ petition is allowed quashing Ext.P7 and declaring that the petitioner is

entitled to the benefit of Ext.P4 order and to the scale of pay of Headmaster sanctioned as per G.O.(MS) No.55/73/G.Edn. dated 24-4-1973 with effect from 5-10-1978. She will be entitled to the entire consequential monetary benefits from the Government. Claim for interest is refused. Let a consequential action be taken by the competent authorities within a period of three months from the date of receipt of a copy of this judgment.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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O.P.No.2975 of 2003

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JUDGMENT

Dated:16-7-2007